

**Notice of Allowability**

Application No.

10/059,088

Applicant(s)

BROWN ET AL.

Examiner

Gregory F. Cunningham

Art Unit

2676

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Board of Patent Appeals and Inferences Decision on Appeal dated 08/05/2005.
2. ☒ The allowed claim(s) is/are 1-3, 5-14, 16-25 and 27-36.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to Board of Patent Appeals and Inferences Decision on Appeal dated 08/05/2005.

2. The disposition of the claims is based on the decision on appeal of the claims is as follows:

Sustain the anticipation rejection of claims 1 through 3, 5, 6, 8 through 10, 12 through 14, 16, 17, 19 through 21, 23 through 25, 27, 28 and 30 through 32; and reverse the anticipation rejection of claims 4, 15 and 26.

3. Claims 34-36 are newly added.

### ***Allowable Subject Matter***

4. Claims 1-36 are allowed.

5. The following is an examiner's statement of reasons for allowance:

Independent claims 1, 12 and 23 have been rewritten to include the limitations of dependent claims 4, 15 and 26, respectively, whereby the Board had reversed the rejection of said dependent claims.

The related art of Frank et al. (U.S. Patent Number 5,651,107), merely mentions color variation of display pixels is not the same as "determining a color level to represent the non-interactive computing task, and graphically adjusting the color with the transparency according to the color level" as now claimed in claims 1, 12 and 23.

Therefore as claimed by the combined elements of amended independent claims 1, 12 and 23, the cited references and prior art of record lack separately and in combination the elements of amended claims.

Furthermore, claims 7, 18 and 29 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has incorporated the limitation of claims 7, 18 and 29 into the equivalent of independent claims 1, 12 and 23, correspondingly in independent claims 34-36, respectively, but without the limitation of "determining a color level to represent said non-interacting computing task" found in independent claims 1, 12 and 23. A search for prior art still lacked the combined elements of independent claims 34-36.

Claims 2-3, 5-11; 13-14, 16-22; and 24-25, 27-33 depend from allowable independent claims 1, 12 and 23, respectively, and therefore are also allowed.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Responses*

7. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 872-9306 may be used for formal communications.

Art Unit: 2676

*Inquiries*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Cunningham

Examiner

Art Unit 2676

10/14/2005



MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600